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IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

SERIAL NO. : 10/608,173
APPLICANTS : Chipchase et al.
FILING DATE : June 27, 2003
ART UNIT : 2618
EXAMINER : Rego, Dominic E.

DOCKET NO. : 863.0041.U1(US)
CUSTOMER NO. : 29683

TITLE : A REPOSITORY FOR A MOBILE PHONE

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SECOND REPLY BRIEF

Sir:

This Reply Brief is submitted pursuant to MPEP §1208 in response to an Examiner's Answer mailed on December 13, 2007 for an Appeal relating to the above-captioned U.S. Patent Application. No petition for an extension of time or fee is believed to be due, however, should the undersigned agent be mistaken, please consider this a petition for any extension of time (i.e., under 37 C.F.R. §1.136(b)) that may be required for submission of this Reply Brief, and charge deposit account no. 50-1924 for any required fee deficiency.

ARGUMENTS

37 C.F.R. §41.43(a) states:

(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer **responding to any new issue raised in the reply brief**.

(2) A supplemental examiner's answer responding to a reply brief **may not include a new ground of rejection**.

MPEP §1207.05(I) further states: "The examiner cannot issue a supplemental examiner's answer if the reply brief raised no new issue."

It is submitted that the Reply Brief filed on November 26, 2007 (also referred to herein as the "First Reply Brief") did not raise any new issues, but only responded to issues raised by the Examiner in the Examiner's Answer mailed on September 25, 2007 (also referred to herein as the "First Examiner's Answer"). As such, the Supplemental Examiner's Answer mailed on December 13, 2007 is improper. The Applicant/Appellant respectfully requests that the Supplemental Examiner's Answer be stricken from the record due to its impropriety and express disallowance per 37 C.F.R. §41.43(a) and MPEP §1207.05.

In the event that the Supplemental Examiner's Answer is not stricken from the record, the arguments presented in the Appeal Brief and First Reply Brief are maintained, and further arguments, expressly in response to the Supplemental Examiner's Answer, are presented below. The Applicant/Appellant hereby traverses any and all issues and rejections put forth by the Examiner and, in conjunction with further arguments below, relies on the Appeal Brief and First Reply Brief in support thereof.

It is briefly noted that contrary to the Examiner's assertions, there is no disclosure or suggestion by Bork that the cradle 46 communicates with the mobile device 54 via any wireless mechanism, such as Bluetooth® (see p. 8 of the Appeal Brief).

On page 14 of the Supplemental Examiner's Answer, the Examiner revises his previous rejection of claim 8 by correcting an incorrect reference number. It is submitted that said correction does not render the Examiner's rejection valid since the user interface the Examiner cites (one alleged to be present on the PC 10) is not located in the device (the cradle 46) that the Examiner argues as corresponding to the claimed repository.

On page 16 of the Supplemental Examiner's Answer, with respect to Bork, the Examiner argues:

Figure 15, repository 46 is a form of shelf which can [*sic*] attached to the wall.

In addition on that, Figure 17, repository 46 is a form of shelf where mobile device 54 and antenna 42 can be supported on the top, or a support such as repository 46 that consists of a horizontal surface for holding objects such as mobile device 54.

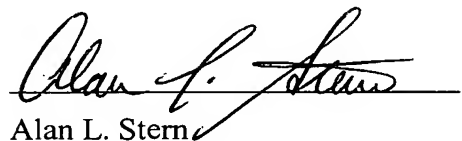
First, component 46 of Bork is described as a "cradle" throughout the disclosure of Bork. As such, it is improper to refer to it as a "repository" and Applicant/Appellant contests and traverses any and all such references. Second, it is reiterated that Bork discloses no such use or functionality of the cradle 46 (see pp. 20-21 of the Appeal Brief). The Examiner is reading such functionality into Bork when no support for such an interpretation is present.

CONCLUSION

The Applicant/Appellant respectfully requests that the Supplemental Examiner's Answer be stricken from the record due to its impropriety and express disallowance per 37 C.F.R. §41.43(a) and MPEP §1207.05. The Applicant/Appellant also respectfully requests that the Board reverse the final rejection of claims 1-16 in the Final Office Action of June 1, 2006, and further that the Board rule that the pending claims are patentable over the cited art.

Respectfully submitted:

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February 13, 2008
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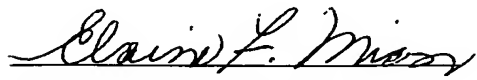
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


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